

1 Monday, 15 January 2024

2 [Open session]

3 [The accused entered the courtroom]

4 --- Upon commencing at 9.11 a.m.

5 PRESIDING JUDGE SMITH: Madam Court Officer, please call the
6 case.

7 THE COURT OFFICER: Good morning, Your Honours. This is case
8 KSC-BC-2020-06, The Specialist Prosecutor versus Hashim Thaci,
9 Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi.

10 PRESIDING JUDGE SMITH: Once again, good morning.

11 I note that the accused are all present in court today. I also
12 note that the Prosecution Witness W01493 will testify via
13 video-conference as granted by the Panel in F01910.

14 Before we start hearing the evidence of Witness W01493, the
15 Panel has four oral orders.

16 First, the Panel will rule on the Veseli Defence request for
17 admission of one item used with W02161. The request was made by the
18 Veseli Defence via e-mail on 11 December 2023. The item is
19 SITF0001529 to 00001871, page SITF00001534, and was shown to W02161
20 on 7 December 2023.

21 The Panel notes that the SPO has indicated that it does not
22 object to this one page being admitted. The Panel considers that the
23 item meets the requirements under Rule 138(1) as it is relevant,
24 authentic, and has probative value which is not outweighed by its
25 prejudicial effect. For these reasons, the Panel admits the one-page

1 item with ERN SITF00001529 to 0001871 at page SITF00001534 under
2 Rule 138.

3 This concludes the first oral order.

4 Madam Court Officer, please bring us into private session.

5 [Private session]

6 [Private session text removed]

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1 [Private session text removed]

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9 [Open session]

10 THE COURT OFFICER: Your Honours, we're back in public session.

11 PRESIDING JUDGE SMITH: Thank you.

12 The third oral order deals with evidence seized from the
13 accused.

14 The Panel orders the SPO to identify, among the exhibits already
15 admitted, which of these were obtained as a result of the search and
16 seizure of the home of one of the accused. To this end, the SPO is
17 ordered to prepare and submit to the Panel and the other parties and
18 participants a list of the respective evidence, the place and time of
19 its seizure, as well as any other information that may be relevant to
20 the assessment of the legality of the measure in question, such as
21 the Court order authorising or subsequently approving the measure
22 with date and filing number.

23 The Panel also directs the SPO to do so on a rolling basis if
24 and when such material is being offered.

25 This concludes the third oral order.

1 The fourth oral order deals with audio-visual recordings of
2 Rule 153, 155 witnesses, and Rule 143(2)(c).

3 The Panel orders the SPO to tender any existing audio-video
4 recordings of the interviews with witnesses whose statements were
5 admitted pursuant to Rules 143(2)(c), 153, and 155 where it has not
6 already done so.

7 The SPO is also ordered to tender any such recordings, where
8 they exist, in relation to any future applications pursuant to those
9 rules.

10 This concludes the fourth oral order.

11 Today, we will start hearing the evidence of Prosecution
12 Witness W01493. And I remind everyone that we are in public session.

13 Madam Court Officer, you may bring the witness into the room.

14 MR. QUICK: Your Honour, while the witness is being brought in,
15 if I can just introduce for the record my colleague, Gaia Pergolo.
16 It's her first time appearing in court in this case. Thank you.

17 PRESIDING JUDGE SMITH: Mr. Emmerson.

18 MR. EMMERSON: And, Your Honour, may I take the opportunity
19 introduce Ms. Kerrie Rowan, who has joined us as co-counsel in the
20 Veseli team.

21 PRESIDING JUDGE SMITH: Thank you very much.

22 [The witness entered court via videolink]

23 PRESIDING JUDGE SMITH: Witness, please remain standing. Please
24 stand. The Court Usher will now provide you with the text of the
25 solemn declaration which you are asked to take pursuant to our

1 Rule 141(2). You may look at the document and then read it aloud.

2 Go ahead when you're ready.

3 THE WITNESS: [via videolink][Interpretation] Conscious of the
4 significance of my testimony and my legal responsibility, I solemnly
5 declare that I will tell the truth, the whole truth, and nothing but
6 the truth and that I shall not withhold anything which has come to my
7 knowledge.

8 WITNESS: W01493

9 [The witness answered through interpreter]

10 [The witness appeared via videolink]

11 PRESIDING JUDGE SMITH: Thank you, Witness. You may be seated
12 now.

13 Witness, today we will start your testimony, which is expected
14 to last two to three days. As you may know, the Prosecution will ask
15 you questions first, and then the Defence has the right to ask
16 questions of you. Members of the Panel might also have questions for
17 you.

18 The Prosecution estimate for your examination is two hours. The
19 Defence estimates that it will need 10 to 11 hours. As regards each
20 estimate, we hope that counsel will be judicious in the use of their
21 time. The Panel may allow re-direct examination if conditions for it
22 are met.

23 Witness, please try to answer the questions clearly with short
24 sentences. If you don't understand a question, feel free to ask
25 counsel to repeat the question or tell them that you don't understand

1 and they will clarify. Also, please try to indicate the basis of
2 your knowledge of facts and circumstances that you will be asked
3 about.

4 In the event you are asked by the SPO to attest to some
5 corrections made regarding your statements, you are reminded to
6 confirm on the record that the written statement as corrected by the
7 list of corrections accurately reflects your declaration.

8 Please also speak into the microphone and wait five seconds
9 before answering a question and speak at a slow pace for the
10 interpreters to catch up.

11 During the next days while you are giving evidence in this
12 court, you are not allowed to discuss with anyone the content of your
13 testimony outside of the courtroom. If any person asks you questions
14 outside the Court about your testimony, please let us know.

15 Please stop talking if I ask you to do so and also stop talking
16 if you see me raise my hand. These indications mean that I need to
17 give you an instruction. If you feel the need to take breaks, please
18 make an indication and an accommodation will be made.

19 Mr. Prosecutor, you may begin.

20 MR. QUICK: Thank you, Your Honour.

21 Examination by Mr. Quick:

22 Q. Good morning, Witness. Can you hear me okay?

23 A. Yes.

24 Q. So, Witness, we have met before, but I will introduce myself
25 again. I am Nathan Quick with the SPO, and I will be asking you some

1 questions today. I expect that my questioning will take less than
2 two hours.

3 Witness, as I explained during your preparation session, rather
4 than asking you questions about every relevant issue that you may
5 have knowledge about, it may be possible to admit some of your prior
6 statements into evidence. In order to do so, there are a number of
7 procedural steps to follow which I will turn to after establishing
8 your identity.

9 MR. QUICK: Your Honour, if we could move to private session for
10 a couple minutes to establish the identity.

11 PRESIDING JUDGE SMITH: Into private session, please,
12 Madam Court Officer.

13 [Private session]

14 [Private session text removed]

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Witness: W01493 (Open Session)

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Examination by Mr. Quick

1 [Open session]

2 THE COURT OFFICER: Your Honours, we are back in public session.

3 PRESIDING JUDGE SMITH: Thank you. You can proceed.

4 MR. QUICK: Thank you, Your Honour.

5 Q. Witness, do you remember being interviewed by the SPO between
6 28 March and 1 April 2022?

7 A. I do. I do.

8 MR. QUICK: Court Officer, if we could please pull up the
9 document with ERN 105527-TR-AT Part 1 RED. That should not be shown
10 outside the courtroom. Thank you.

11 Q. Mr. Witness, can you see a document on your screen?

12 A. Yes.

13 Q. And on the first page at the top at line 1, do you see the date
14 28 March 2022?

15 A. I do.

16 Q. And do you see your name at line 9? I don't want you to say the
17 name because we're in public session. Just confirm "yes" or "no."

18 A. Yes, I do.

19 Q. I won't show you all parts of this interview as there are many,
20 but do you recall recently being given an opportunity to review the
21 interview transcripts?

22 A. Yes, I reviewed and read the entire statement.

23 Q. Mr. Witness, I would also like to refer you to another statement
24 you previously provided.

25 MR. QUICK: Court Officer, if we could please pull up

1 Witness Statement 2 and the list annex to Preparation Note 1. As
2 foreshadow in our e-mail last week, we won't be reading the ERN into
3 the record as it is potentially identifying. Thank you.

4 Q. Mr. Witness, do you recognise this statement?

5 A. Yes, I do.

6 Q. And do you see the date on that first page? Again, please don't
7 read it. Just confirm "yes" or "no."

8 A. Yes, I see it.

9 Q. And your name?

10 A. Yes.

11 Q. Thank you.

12 MR. QUICK: Court Officer, if we can please turn to page 43 of
13 the statement.

14 Q. Witness, do you recognise the signature on this page?

15 A. Yes, this is my signature.

16 Q. Witness, do you remember being given the opportunity to review
17 this statement?

18 A. Yes.

19 Q. And before your testimony today, were you given the opportunity
20 to make clarifications and corrections to both this statement and the
21 SPO interview that we discussed earlier?

22 A. Yes.

23 Q. And do you recall these corrections and clarifications being --
24 and do you recall these clarifications and corrections being included
25 in a note which was read back to you?

1 A. Yes, we made some corrections, and they're clear to me.

2 Q. And do you recall being asked to confirm that the information in
3 this note reflected your account fully and accurately?

4 A. Yes.

5 Q. Subject to the corrections set out in the note, do your
6 statements accurately reflect your evidence and what you would say if
7 you were again asked the same questions in court?

8 A. Yes, that's true.

9 MR. QUICK: Your Honours, the SPO seeks the admission of the
10 English and Albanian versions of the statement and SPO interview
11 under Rule 154 along with the associated exhibits and Preparation
12 Note 1, ERN 118454 to 118467. The ERNs of the statements and
13 associated exhibits are listed in the Annex to Preparation Note 1.
14 They should all be confidential.

15 PRESIDING JUDGE SMITH: The statement and the associated
16 exhibits are admitted. The Prep Note 1 is also admitted. Those
17 items will be given an exhibit number to be read out after the next
18 break because of the volume.

19 MR. QUICK: Thank you, Your Honour. The SPO sent a brief
20 summary of the witness's Rule 154 statement which, with Your Honours'
21 leave, I'll now read.

22 PRESIDING JUDGE SMITH: Permission granted.

23 MR. QUICK: The witness served in the Dukagjini operational zone
24 around mid-1998 and provides information on the structure of, and
25 relationship between, the forces of the Kosovo Liberation Army, KLA,

1 and Armed Forces of the Republic of Kosovo, FARK.

2 FARK and certain other units and officers in and around the
3 Dukagjini operational zone only respected the ultimate authority of
4 the Government of the Republic of Kosovo, also known as the
5 government-in-exile.

6 At meetings between FARK and KLA members around late August 1998
7 and early September 1998, KLA General Staff members, including
8 Hashim Thaci, Rexhep Selimi, Bislime Zyrapi, and Lahi Brahimaj,
9 asserted the authority of the KLA General Staff over forces in the
10 Dukagjini operational zone.

11 According to the witness, Thaci appeared to be the most senior
12 KLA official at certain of these meetings.

13 The witness also provides information about the structure and
14 organisation of certain KLA and FARK units based in Albania in late
15 1998 and 1999. Around March 1999, the witness found a document
16 purportedly from Azem Syla and Jakup Krasniqi at a certain KLA base
17 in Albania. The document asserted the exclusive authority of the KLA
18 General Staff and denied the authority of the government-in-exile.

19 The witness provides information about the KLA's treatment of
20 certain perceived opponents, including FARK members and alleged
21 collaborators, in the Dukagjini operational zone and locations in
22 Albania.

23 Q. Witness, two of your prior statements have now been admitted and
24 cover your experiences and knowledge of relevant events in great
25 detail, so I now only have questions to clarify and supplement your

1 statements on two topics. As discussed during the preparation
2 session, it's important that you specify your source of knowledge and
3 that you directly respond to the questions being asked.

4 It's also very important that we pause for five seconds between
5 questions and answers to give the interpreters the opportunity to
6 interpret what we're saying.

7 Now, Witness, you provided a number of documents and I want to
8 start with a few questions about those.

9 MR. QUICK: As we will be discussing specifics concerning how
10 these documents were created, which will include discussion of your
11 position in summer 1998, I would ask, Your Honours, if we could
12 please move to private session.

13 PRESIDING JUDGE SMITH: For the protection of the witness?

14 MR. QUICK: Yes, Your Honour.

15 PRESIDING JUDGE SMITH: All right.

16 Madam Court Officer, please take us to private session for the
17 protection of the witness.

18 [Private session]

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Examination by Mr. Quick

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetić

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Cross-examination by Mr. Misetic

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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17 [Open session]

18 THE COURT OFFICER: Your Honours, we are back in public session.

19 PRESIDING JUDGE SMITH: All right. We are adjourned until

20 11.30.

21 --- Recess taken at 11.00 a.m.

22 --- On resuming at 11.32 a.m.

23 PRESIDING JUDGE SMITH: You may bring the witness in.

24 [The witness takes the stand via videolink]

25 THE COURT OFFICER: [via videolink] Your Honours, I can confirm

Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

1 present at the remote room is myself, Court Officer, and

2 Witness W01493.

3 PRESIDING JUDGE SMITH: Please take us back to private session.

4 [Private session]

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Cross-examination by Mr. Misetic

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Cross-examination by Mr. Misetic

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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5 [Open session]

6 THE COURT OFFICER: Your Honours, we are back in public session.

7 PRESIDING JUDGE SMITH: All right. Do you want to get that --
8 Madam Court Officer, do you want to get that exhibit admitted at this
9 point from the oral order this morning on the Veseli team's request
10 to admit an item? We will assign a P number.

11 THE COURT OFFICER: Your Honours, the page SITF00001534 from
12 SITF00001529 to 1871 will be added to the Exhibit P743.2.

13 PRESIDING JUDGE SMITH: Thank you.

14 Now, we are adjourned until 2.30.

15 --- Luncheon recess taken at 1.00 p.m.

16 --- On resuming at 2.31 p.m.

17 PRESIDING JUDGE SMITH: We can go back into private session now,
18 Madam Court Officer.

19 [Private session]

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Witness: W01493 (Private Session)

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Cross-examination by Mr. Misetic

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Witness: W01493 (Private Session)

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Witness: W01493 (Private Session)

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Witness: W01493 (Private Session)

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19 [Open session]

20 THE COURT OFFICER: Your Honours, we are back in public session.

21 PRESIDING JUDGE SMITH: Thank you.

22 Mr. Misetic, where are we in your cross-examination?

23 MR. MISETIC: I was afraid you were going to ask me that,

24 Mr. President. I am aware of how much time I requested. It's going

25 a lot slower than I had hoped, but I am consulting with my colleagues

1 to make sure that we stay on track and so this witness finishes
2 tomorrow, from the Defence side, at least, with time for Judges'
3 questioning, et cetera.

4 So I will finish in the first session, hopefully well before the
5 end of the first session. That's my objective.

6 PRESIDING JUDGE SMITH: Thank you very much.

7 We'll see you all tomorrow. We are adjourned.

8 --- Whereupon the hearing adjourned at 4.03 p.m.

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